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## PURPOSE

To ensure facility compliance when a youth is required by law to provide a (deoxyribonucleic acid) DNA sample prior to release to a community-based placement. When DNA sample collection has not been completed as required for Michigan Department of Health and Human Services (MDHHS) supervised youth, facility staff must work with the juvenile justice specialist to resolve the issue. For court-supervised youth in state run detention or training schools, facility staff must work with the court probation officer to resolve the issue.

## DEFINITIONS

### Felony

MCL 712A.18k, MCL 803.225a(7)(a) and MCL 803.307a(7)(a) define a "felony" as "a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony."

### Profile

MCL 28.172(c) and Mich Admin Code, R 28.5051(j) define "DNA identification profile" or "profile" as "the results of the DNA identification profiling of a sample, including a paper, electronic, or digital record."

### Sample

MCL 28.172(g) defines "sample" as "a portion of an individual's blood, saliva, or tissue collected from the individual."

MCL 803.225a(7)(b) defines "sample" as "a portion of a juvenile's blood, saliva, or tissue collected from the juvenile."

MCL 803.307a(7)(b) defines "sample" as "a portion of a public ward's blood, saliva, or tissue collected from the public ward."

Mich Admin Code, R 28.5051(c) defines "sample" as "a source of cellular DNA that is collected using the DNA collection kit provided by the Michigan Department of State Police."

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**RESPONSIBLE  
STAFF**

State run and private, contracted juvenile justice residential treatment facility staff. Specific staff must be designated in the facility standard operating procedure (SOP).

**PROCEDURE**

Each facility must develop and implement a SOP relative to ensuring legally required DNA samples have been collected prior to release to the community. At a minimum, the SOP must contain the following requirements:

**DNA SAMPLE  
REQUIRED  
Upon Arrest**

Youth arrested for committing or attempting to commit a felony offense or an offense that would be a felony offense if committed by an adult, must have a DNA sample collected if one has not previously been collected. To determine if an offense meets the definition of a felony or attempted felony, compare the youth's offense to the Michigan Penal Code, 1931 PA 328 and/or the Michigan Public Health Code, 1978 PA 368 and review the punishment designated for the offense. If the offender may be punished by imprisonment for more than one year or the law specifically states that the offense is a felony, a DNA sample is required.

**Upon Adjudication  
or Conviction**

Youth who have been **adjudicated for or convicted of** a felony, attempted felony or one of the following listed misdemeanors or local ordinances that are substantially corresponding to the following misdemeanors, must have a DNA sample collected:

- Disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution, MCL 750.167(1)(c),(f), or (i).
- Indecent exposure, MCL 750.335a.
- First and second prostitution violations, MCL 750.451.

**Note:** To determine if an offense meets the definition of a felony or attempted felony, compare the youth's offense to the Michigan Penal Code, 1931 PA 328 and/or the Michigan Public Health Code, 1978 PA 368 and review the punishment designated for the offense. If the offender may be punished by imprisonment for more than one year or the law specifically states that the offense is a felony, a DNA sample is required.

Youth who have been **convicted of** one of the following listed misdemeanors or local ordinances that are substantially corresponding to the following misdemeanors, must have a DNA sample collected:

- Leasing a house for purposes of prostitution, MCL 750.454.
- Person who, for a purpose other than prostitution, takes or conveys to, or employs, receives, detains, or allows a person 16 years of age or less to remain in a house of prostitution, MCL 750.462.

Youth who have been **adjudicated for** the misdemeanor of Criminal sexual conduct IV, MCL 750.520e, or a local ordinance that substantially corresponds to criminal sexual conduct IV, MCL 750.520e must have a DNA sample collected.

### Review of Records for DNA Sample

When a DNA sample is required, facility staff must review the youth's case records to determine if a DNA sample has been collected. Document DNA sample requirements and completion of sample collection in the supporting information of the treatment plan and release reports in MiSACWIS.

- When a youth's case record contains a DHS-62, Delinquent Youth DNA Profile Verification, approved by the MDHHS juvenile justice supervisor, no further action is required, **or**
- When a MC 283, Order for DNA Sample, has the Certification and Return section signed and dated by the law enforcement agent/Sheriff with the box checked "was not taken because the Department of State Police already has a DNA sample of the defendant/juvenile," no further action is required.

## SAMPLE COLLECTION

When a DNA sample is required and the record does not contain verification that the collection has been completed, facility staff must work with the juvenile justice specialist, or court probation officer for court-supervised youth placed directly in state run facilities, to coordinate sample collection. Pursuant to MCL 803.307, the youth must not be released from placement in a facility to a community-based placement until the DNA sample has been collected. The youth must also not be discharged from wardship until the DNA sample has been collected. When a sample is required for a youth under the care and supervision of MDHHS, the investigating law enforcement agency is the designated agency to collect the sample.

The investigating law enforcement agency must collect the sample and submit it to the Michigan Department of State Police within 72 hours. Pursuant to Mich Admin Code, R 28.5053(5)(f), the collection and submission of the sample must be completed within 30 days of the youth's acceptance date.

The Michigan Department of State Police, CODIS Section, is responsible for profiling the DNA sample and maintaining profile records. Questions about the DNA collection process may be directed to:

Michigan State Police  
CODIS Section  
7320 N. Canal Rd.  
Lansing, MI 48913  
Phone: 517-636-0465  
Fax: 517-636-0491  
Email: [MSPCODIS@michigan.gov](mailto:MSPCODIS@michigan.gov)

### Payment to Obtain Sample and Forensic Tests

For MDHHS-supervised youth, the juvenile justice specialist may process payment for the cost of obtaining the DNA sample, as outlined in [JJM 265, DNA Profiling - Payment to Obtain Sample and Forensic Tests](#).

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**COURT-ORDERED  
FEES**

A fee of \$60.00 must be assessed by the court upon adjudication or conviction of the listed offenses. The facility must inform the youth of his/her responsibility to pay the fee and that failure to pay may result in court action against the youth. The court may suspend all or part of the assessment fee if it determines that the youth is unable to pay.

Facility staff must assist the youth with paying this fee to the court from the youth's weekly allowance or earned income. The youth must be given a receipt for each payment and a copy of the receipt must be filed in the youth's case record.

**LEGAL BASE  
State****The DNA Identification Profiling System Act, 1990 PA 250, as amended, MCL 28.176(1)(a).**

Except as otherwise provided in this section, the Michigan State Police shall permanently retain a DNA identification profile of an youth obtained from a sample in the manner prescribed by the Michigan Department of State Police under this act if the youth is arrested for committing or attempting to commit a felony offense or an offense that would be a felony offense if committed by an adult.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18k. Provides specific information on when a DNA sample should be obtained and the agency designated to collect a sample. Details the DNA assessment fee and how it is ordered and when it can be waived.

**The Juvenile Facilities Act, 1988 PA 73, as amended, MCL 803.225a.**

Provides DNA sample collection requirements for juveniles who are under the supervision of the department of a county juvenile agency under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18 and have been found responsible for or convicted of certain offenses. Prohibits a youth to be released to a community placement of any kind or discharged from wardship until DNA samples have been collected. Provides which samples are required to be collected by the designated agency and required assessment fees.

**The Youth Rehabilitation Service Act, 1974 PA 150, as amended, MCL 803.307a.**

Provides specific details on when a public ward cannot be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided a DNA sample.

Provides information on which offenses require a DNA sample, authorized disclosure of DNA profiles, and when a DNA assessment fee can be ordered.

**Forensic Science Division DNA Profiling System, Mich Admin Code, R 28.5051-28.5059.**

Identifies requirements to collect samples from certain juvenile offenders and designates the investigating law enforcement agency as responsible to complete the sample collection.

**CONTACT**

Policy clarification questions may be submitted by juvenile justice supervisors and management to [Juvenile-Justice-Policy@michigan.gov](mailto:Juvenile-Justice-Policy@michigan.gov).